

MICHAEL A. KAKUK  
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Office of the Montana State Auditor  
Commissioner of Securities and Insurance  
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Attorneys for the CSI

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
MONTANA STATE AUDITOR

IN THE MATTER OF:

HCC LIFE INSURANCE COMPANY;  
HCC MEDICAL INSURANCE  
SERVICES, LLC; STARR INDEMNITY  
& LIABILITY COMPANY; USHEALTH  
GROUP; NATIONAL FOUNDATION  
LIFE INSURANCE COMPANY;  
COVERAGE ONE INSURANCE  
GROUP, LLC; DAVID H. ETTINGER;  
BETH ETTINGER; KARL BECKER;  
HEALTH BENEFITS ONE, LCC;  
MATTHEW E. SPIEWAK; DANIELLE  
BRETTI; QUICK QUOTE US LLC;  
MICHAEL S. HILF; TERRY M.  
ALVARADO; MICHAEL K.  
BORCHERS; PEDRO J. COLON;  
TERESA M. NEWMAN; JORGE  
SAAVEDRA; SAMATHA M.  
SCHEIBNER; MICHAEL C. TOBIAS;  
WESTERN HERITAGE INSURANCE  
MARKETING GROUP; and LISA D.  
GONZALES;

Respondents.

CASE NO. INS-2015-348

CONSENT AGREEMENT AND  
FINAL ORDER RE:  
MICHAEL K. BORCHERS

This Consent Agreement (Agreement) is entered into by the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI), acting pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101 et seq. (Code), and Michael K. Borchers (Respondent). The Final Order (Order) is issued by the authority of the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner).

#### RECITALS

WHEREAS, the CSI alleged in the Notice of Proposed Agency Action and Opportunity for Hearing (NOPAA) in this matter that Respondent did not fully explain all material terms of short term medical insurance policies to some insureds;

WHEREAS, the CSI alleged in the NOPAA in this matter that Respondent sold insurance policies from HCC Life Insurance Company and National Foundation Life Insurance Company without being properly appointed by those insurers;

WHEREAS, the CSI alleged in the NOPAA in this matter that Respondent, through his employment at Health Insurance Innovations (HII), allowed the sale or transaction of insurance policies by unlicensed individuals working for HII;

WHEREAS, Respondent alleges that he was a salaried employee of HII, and thus did not receive any commission from any insurance sales;

WHEREAS, Respondent alleges that HII's computer system was supposed to only allow him to sell policies in locations where he was properly licensed and appointed;

WHEREAS, Respondent alleges that he may have sold some insurance policies to Montana residents, but not to the extent alleged in the NOPAA.

WHEREAS, Respondent alleges he was not aware of other employees of HII selling insurance policies and attributing them to Respondent;

WHEREAS, Respondent no longer works for HII, and no longer personally sells insurance policies;

WHEREAS, the CSI and Respondent agree that the best interests of the parties and the public would be served by entering into this Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the CSI and Respondent agree to settle this matter pursuant to the following terms and conditions:

#### STIPULATIONS AND CONSENTS

I. Respondent stipulates and consents to the following:

A. Respondent neither admits nor denies the allegations contained in the NOPAA;

B. Pursuant to MCA § 33-1-1102, Respondent agrees to pay \$10,000.00 to the claim administrator Dahl Administration, LLC, (Dahl) as part of a fund for to the benefit of Montana insureds who purchased short-term medical insurance from HII. The claim and validation process shall be set by the CSI, and processed by Dahl. This payment shall be made by check payable to "Health Insurance Innovations Restitution Fund" within 10 business days of the execution of this Agreement and sent to:

Dahl Administration, LLC  
Attn: Jeff Houdek  
6465 Wayzata Blvd., Ste. 420  
Minneapolis, MN 55426

Proof of the payment shall be sent to:

Montana State Auditor's Office  
c/o Legal Department  
840 Helena Ave.  
Helena, MT 59601  
[Imonroe@mt.gov](mailto:Imonroe@mt.gov)

C. Respondent agrees that he will obtain not less than 6 hours of supplemental continuing education credit, consisting of at least one class in the area of ethics and another in the area of health insurance sales. Respondent agrees to provide proof of completion of these additional 6 credits within 180 days of the effective date of this agreement. These 6 credits shall be in addition to any continuing education requirements contained in Mont. Code Ann. § 33-17-1203.

D. Respondent agrees to not commit any violations of the Code. Specifically, Respondent agrees that he will ensure that he is properly appointed by any insurers before selling any of their insurance products. Respondent further agrees that he will ensure that others do not sell insurance policies and attribute those policies to Respondent's insurance producer license.

E. Should Respondent personally transact or sell any insurance policies to Montana residents, Respondent agrees to provide to the CSI a report of the number and type of policies sold. These reports are due at least quarterly, as necessary, during the two year period beginning after the first sale of a policy to a Montana resident, following the effective date of this Agreement. Reports should be mailed or emailed to:

Montana State Auditor's Office  
c/o Legal Department  
840 Helena Ave.  
Helena, MT 59601  
[jmonroe@mt.gov](mailto:jmonroe@mt.gov)

F. Respondent fully and forever releases and discharges the Commissioner, the CSI, and all of the CSI's employees and agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this action.



G. Respondent specifically and affirmatively waives his right to a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-101 et seq., and elects to resolve this matter with this Agreement.

H. Respondent acknowledges that he was advised of the right to be represented by legal counsel and if represented by legal counsel, that such legal representation was satisfactory.

I. Respondent acknowledges that he enters into this Agreement voluntarily and without reservation.

II. All parties to this Agreement stipulate and consent as follows:

A. The Commissioner and the CSI have jurisdiction over the subject matter of this matter.

B. This Agreement is entered without adjudication of any issue of law or fact. This Agreement covers only the factual allegations addressed above and alleged in the NOPAA. It is entered into solely for the purpose of resolving the CSI's allegations and is not intended to be used for any other purpose. For any person or entity not a party to this Agreement, this Agreement does not limit or create any private rights or remedies against Respondents, limit or create liability of Respondents, or limit or create defenses of Respondents to any claims.

C. The applicable statute of limitations is tolled for two years from the date of execution of this Agreement with regard to the allegations in the Recitals or the NOPAA. In the event Respondents violate the terms of this Agreement at any time before the applicable statute of limitations has run, the CSI reserves the right to seek any additional administrative penalties or further regulatory action.

D. This is the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the CSI or by any member, officer, agent, or representative of the CSI to induce Respondents to enter into this Agreement.

E. This Agreement may not be modified orally, and any subsequent modifications to this Agreement must be mutually agreed upon in writing, with the same formality as this Agreement, to be effective.

F. This Agreement shall be incorporated into and made a part of the attached Final Order issued by the Commissioner.

G. This Agreement shall be effective upon signing of the Final Order.

H. The Agreement is a public record under Montana law and, as such, may not be sealed or otherwise withheld from the public.

DATED this 17<sup>th</sup> day of September, 2018.

OFFICE OF THE MONTANA STATE  
AUDITOR,  
COMMISSIONER OF SECURITIES AND  
INSURANCE

By: 

MICHAEL A. KAKUK  
BENJAMIN TILLER  
Attorneys for the CSI

DATED this 30<sup>th</sup> day of July, 2018.

By: 

MICHAEL K. BORCHERS

APPROVED AS TO FORM on this 5 day of September, 2018.

By: 

JEFF MCALLISTER  
Attorney for Michael K. Borchers

In re: Health Insurance Innovations, Inc., et al.  
Consent Agreement and Final Order Re: Borchers

**FINAL ORDER RE:**

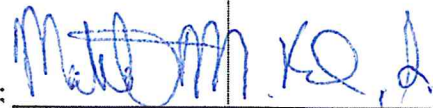
**MICHAEL K. BORCHERS**

Pursuant to the authority vested by Mont. Code Ann. §§ 2-4-603 and 33-1-101 et seq.,  
and upon review of the foregoing Consent Agreement, and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the CSI and  
Respondent Michael K. Borchers is adopted as if set forth fully herein.

DATED this 20 day of September, 2018.

By:

A handwritten signature in blue ink, appearing to read "Matt M. Rosendale, Sr.", is written over a horizontal line.

**MATTHEW M. ROSENDALE, SR.**  
Montana State Auditor,  
Commissioner of Securities and Insurance